

Message Text

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PAGE 01 ISLAMA 05191 251644Z
ACTION NEA-11

INFO OCT-01 EUR-12 ISO-00 HA-05 CIAE-00 DODE-00 PM-05
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CINCPAC
CINCEUR

C O N F I D E N T I A L ISLAMABAD 5191

PACOM AND EUCOM FOR POLAD

E.O. 11652: GDS
TAGS: PINT, SHUM, PK
SUBJECT: BHUTTO APPEAL ENDS FIRST WEEK

REF: A) ISLAMABAD 5018, B) ISLAMABAD 4968

1. SUMMARY -- THE PAKISTAN SUPREME COURT COMPLETED ITS FIRST WEEK
OF HEARINGS MAY 24 IN FORMER PM BHUTTO'S APPEAL OF HIS MURDER
CONVICTION (REFTEL A). BHUTTO'S COUNSEL, IN HIS FIRST REAL
DEFENSE OF BHUTTO, QUESTIONED SHARPLY THE VERACITY OF THE
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CONFIDENTIAL

PAGE 02 ISLAMA 05191 251644Z

PROSECUTION WITNESSES ON WHOSE TESTIMONY MOST OF THE CASE RESTS;
HE ALSO QUESTIONED THE GOVERNMENT'S BALLISTICS TESTS AND THE
MOTIVES OF AHMED RAZA KASURI, SON OF THE MURDER VICTIM. THE
APPEAL PROCEEDINGS WILL RESUME MAY 27. END SUMMARY.

2. ON MAY 24, THE SUPREME COURT WOUND UP ITS FIRST WEEK OF DAILY
SITTINGS ON THE APPEAL OF FORMER PM BHUTTO AND FOUR

ACCOMPLICES OF THE MURDER CONVICTIONS HANDED DOWN BY THE LAHORE HIGH COURT IN MARCH. FOLLOWING AN OPENING DAY HIGH WITH DRAMA AND POLEMICAL MANEUVER (REF A), THE COURT HAS SETTLED INTO ITS MORE USUAL ROUTINE, WITH BHUTTO'S LAWYER (AND FORMER ATTORNEY GENERAL) YAHYA BAKHTIAR PRESENTING A LENGTHY AND METHODICAL OVERVIEW OF THE DEFENSE POSITION IN THE CASE. AS SUCH, HIS REMARKS CONSTITUTE THE FIRST REAL DEFENSE THE PUBLIC AND THE COURTS HAVE HEARD, THE FORMER PM HAVING ABJURED A FORMAL DEFENSE IN LAHORE IN FAVOR OF POLITICAL ORATORY AND LEGAL MOTIONS.

3. BAKHTIAR HAS ZEROED IN ON THREE MAIN POINTS IN THE PROSECUTION'S ARGUMENT:

-- HE HAS QUESTIONED THE VERACITY OF THE "APPROVERS" (STATE'S WITNESSES), CLAIMING THAT THEY HAD EITHER BEEN PRESSURED BY THE MARTIAL LAW ADMINISTRATION (MLA) INTO PROVIDING STATEMENTS OR HAD OTHER SINISTER MOTIVES OF THEIR OWN. BAKHTIAR CLAIMS THAT IT IS A VIOLATION OF THE RULES OF EVIDENCE TO CORROBORATE THE TESTIMONY OF ONE "APPROVER" WITH THE TESTIMONY OF ANOTHER.

-- BAKHTIAR HAS ALSO CLAIMED THAT THE BALLISTICS TESTS CARRIED OUT BY THE GOVERNMENT DO NOT PROVE THE PROSECUTION'S CONTENTION THAT THE MURDER WAS CARRIED OUT BY THE FEDERAL SECURITY FORCE (FSF) WITH THE WEAPONS DESCRIBED.

-- BAKHTIAR HAS ATTACKED THE MOTIVES OF AHMED RAZA KASURI, SON
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PAGE 03 ISLAMA 05191 251644Z

OF THE DECEASED AND A FOUNDING MEMBER OF THE PAKISTAN PEOPLES PARTY (PPP), BEFORE HIS FALLING OUT WITH BHUTTO. BAKHTIAR ALLEGES THAT KASURI IS NOTHING MORE THAN AN "OPPORTUNIST WITHOUT SCRUPLES" WHO WOULD "SELL THE BODY OF HIS FATHER FOR PERSONAL GAINS." BAKHTIAR HAS REVIEWED KASURI'S RELATIONSHIP WITH BHUTTO, INCLUDING KASURI'S VARIOUS POLITICAL WANDERINGS, HIS REJOINING THE PPP, AND HIS ALLEGED SOLICITATION OF BHUTTO'S FAVOR. BAKHTIAR SAYS KASURI DECIDED TO REOPEN THE MURDER CASE BECAUSE HE WAS REFUSED A PPP ELECTION TICKET FOR A NATIONAL ASSEMBLY SEAT. BAKHTIAR SAYS THAT KASURI'S MOTIVES ARE FAR FROM PRISTINE AND THAT HIS EVIDENCE SHOULD BE JUDGED ACCORDINGLY.

4. STIMULATED BY BAKHTIAR'S PRESENTATION AND IN AN EFFORT TO SEE FOR ITSELF THE RECORD OF THE 1974 POLICE INVESTIGATION, THE COURT HAS REQUESTED THE GOVERNMENT TO PROVIDE THE COMPLETE POLICE FILE OF THE MURDER CASE. THE COURT HAS ALSO ASKED FOR THE FEDERAL INVESTIGATION AGENCY (FIA) REPORT ON BHUTTO'S INVOLVEMENT. BAKHTIAR HAS ALLEGED THAT THERE ARE SERIOUS DISCREPANCIES IN RECORDED STATEMENTS CONTAINED IN THESE RECORDS.

5. THE ARGUMENT OVER BHUTTO'S PRISON CONDITIONS (REFTEL A) HAS

NOT RESURFACED AS AN ISSUE. THE CHIEF JUSTICE MAY 21 ORDERED THE SPECIAL PUBLIC PROSECUTOR TO "PROVIDE THE NECESSARY FACILITIES" TO THE PRISONERS. HE ASKED THE PROSECUTOR TO REPORT ON ANY ACTIONS HE TAKES. THE CHIEF JUSTICE ALSO ORDERED THAT THE AUTHORITIES ALLOW THE APPELLANTS AND THEIR COUNSEL TO MEET AS FREQUENTLY AS THEY LIKE OUTSIDE OF COURT SESSIONS. BBC HAS REPORTED THE END OF A PROTEST HUNGER STRIKE THAT BHUTTO HAS DENIED HE BEGAN.

6. COMMENT: BAKHTIAR HAS BEGUN TO SOFT-PEDAL THE HIGHLY POLEMICAL STAND HE TOOK ON THE TRIAL'S OPENING DAY, WHICH SEEMED DESIGNED TO KEEP POLITICS IN THE BHUTTO DEFENSE AND SUPPORT THE POSTURE TAKEN BY THE FORMER PM IN THE LAHORE HIGH COURT. HAVING DONE HIS POLITICAL DUTY, HOWEVER, BAKHTIAR HAS BEGUN NOW TO ATTACK THE CONFIDENTIAL

CONFIDENTIAL

PAGE 04 ISLAMA 05191 251644Z

GOVERNMENT'S CASE AT THE POINT MANY CONSIDER THE WEAKEST -- THE TESTIMONY OF THE "APPROVERS" AND OF KASURI. BAKHTIAR IS ARGUING THE CASE ON ITS MERITS, FOR THE FIRST TIME, ALBEIT NEVER FORGETTING THE POLITICAL STATUS OF HIS CLIENT OR THE POLITICAL NEEDS OF HIS FOLLOWERS. WHATEVER IMPACT HIS HARD-HITTING APPROACH MAY HAVE ON THE COURT, HE MAY HAVE SOME IMPACT ON PUBLIC ATTITUDES IF HE IS PERMITTED TO GO INTO AS FORMAL A DEFENSE AS HE HAS BEEN THUS FAR AND IF THE PRESS CONTINUES ITS FULL ACCOUNT OF HIS DAILY REMARKS.
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